

Remarks

The Examiner rejoined claims 1-2 and 11-15. Applicants amended claims 1 and 11 to include the same limitations as claims 3 and 16 and, therefore, no new search is needed and these amendments should be entered since they are merely conforming the scope of claims 1 and 11 to be consistent with the other claims.

The Examiner rejected claims 3 and 16 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 4,820,386 to LaConti. The Examiner also rejected claims 1-3, 6, and 11-19 under 35 U.S.C. §103 as being unpatentable over LaConti in view of U.S. Patent No. 5,612,225 to Baccanti. Claims 3, 6, 16, and 19 were rejected under 35 U.S.C. §103 as being unpatentable by LaConti in view of U.S. Patent No. 6,830,730 to Rhodes.

In particular, the Examiner relies upon LaConti to disclose Applicants' claimed sensor. The other references are used to show a gas chromatograph column and an oxidizer.

All claims relate to, among other elements, an electrochemical sensor having a substrate with a surface for depositing an electrode thereon; an ionomer membrane in contact with the surface of the substrate and having a first surface and a second surface; an electrode in contact with the surface of the substrate; and an opening extending from the first surface to the second surface in a location proximate to the electrode for defining a passage.

The LaConti structure is critically different from Applicants' claimed invention in that Applicants require an opening extending from a first surface to a second surface of the ionomer membrane in a location proximate to said electrode for defining a passage.

LaConti does not have an opening for defining a passage but instead, as suggested by the Examiner, has pores that are equated to Applicants' claimed opening despite the fact that LaConti does not even disclose, teach, or suggest a pore in the electrolytic medium. Moreover, LaConti's pores are not openings that extend from a first surface to a second surface of the membrane, as claimed by Applicants, and there is no teaching or suggestion in LaConti or any reference that the pores do extend from a first surface to a second surface. A surface is defined to be "an outer face or exterior boundary of a thing; outermost or uppermost layer. Any face of a body or thing." Webster's Unabridged Dictionary, 2nd Ed., 1999. A pore is defined to be "a minute opening or orifice, as in the skin or a leaf. A minute interstice." *Id.* Therefore, even if LaConti did have pores, which Applicants note are not taught or suggested, these pores would not extend, and are not taught or suggested to extend, from any face or exterior boundary to another face or exterior boundary. A pore, by definition, is not the same as Applicants' claimed opening that extends from one surface to another surface.

Because LaConti does not anticipate Applicants' claimed opening in the ionomer, the rejections with respect to 35 USC §102 should be withdrawn.

A combination of LaConti and any of the other cited references do not arrive at Applicants' claimed invention without some modification to the combined art. Without the requisite teaching or suggestion, there is no motivation for one skilled in the art to modify LaConti to provide an opening extending from a first surface to a second surface of the ionomer membrane in a location proximate to said electrode for defining a passage. None of the other references are relied upon to show Applicants' claimed sensor or claimed opening in the ionomer membrane.

For references to be properly modified in a rejection under 35 USC §103, there must be some teaching or suggestion in the references to make the suggested modification. Absent the requisite teaching or suggestion, the modification would be im-

proper. As mentioned above, there is no teaching or suggestion in LaConti or any of the other references to provide Applicants' claimed opening. Without the requisite teachings or suggestions to modify the art to arrive at the claimed invention, the combination of prior art does not make Applicants' opening obvious.

Accordingly, Applicants' traverse the Examiner's 35 U.S.C. §103(a) rejections of claims 1-3, 6, and 11-19 and respectfully submit these claims should be allowed.

Respectfully submitted,



November 10, 2006

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